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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 34

STEWART L. UDALL, Secretary of the Interior,
Petitioner

v.

JAMES K. TALLMAN, ET AL., *Respondents*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

OPPOSITION TO MOTIONS FOR LEAVE TO FILE BRIEFS AS AMICI CURIAE BY RICHFIELD OIL CORPORATION, STANDARD OIL COMPANY OF CALIFORNIA, MARATHON OIL COMPANY AND UNION OIL COMPANY OF CALIFORNIA

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Respondents in the above cause object to the granting of the motions of Richfield Oil Corporation, Standard Oil Company of California, Marathon Oil Company, and Union Oil Company of California for leave to file briefs as *amici curiae* for the following reasons.

1. The Movants had notice of the termination of the administrative proceedings in this case. Each of the

persons having an adverse interest in the leases involved in this case were advised by certified mail of the proceedings before the Secretary pursuant to Departmental regulations. In particular, Respondents' Petition for Exercise of Supervisory Authority (R. 46-70) was mailed by certified mail to each of these persons and proof of service was made to the Department. This Petition raised the legal contention subsequently adopted by the Court of Appeals (R. 48-61), which Movants seek to now challenge on the merits as *amici*. Movants had knowledge of the Secretary's decision (R. 71) denying Respondents' Petition before the Department. Despite the fact that Respondents initiated suit against the Secretary within the prescribed 90-day period,[1] in the only court in the country then having jurisdiction of the action,[2] the present Movants declined to intervene in these judicial proceedings as they had a right to do, apparently for tactical reasons. Having failed to enter the case then or to offer their services as *amici* to the Court of Appeals prior to its decision, the movants now seek to argue this case on the merits while at the same time urging this Court that they were indispensable parties. The Government did not argue this issue below and does not seek to raise this question now and Movants, who consciously kept the issue dormant until this stage, should not be allowed to argue it. The Court of Appeals below unanimously rejected similar motions by these Movants to appear as *amici* in support of rehearing.

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[1] 30 U.S.C. § 226-2.

[2] Public Law 87-748, 76 Stat. 744 (1962), 28 U.S.C. § 1371, 1391(e) (Supp. 1962) permitting suits against the Secretary in other jurisdictions (where amici may be situated) was not enacted until October 5, 1962.

2. Movants have not shown how they can be of assistance to this Court in reaching a decision. Their motions set forth no facts of record or questions of law that have not been adequately presented in the brief filed by the Solicitor General, nor do they give any reason for believing that he will not continue to adequately present the Secretary's case. The only issue which the Secretary's brief does not thoroughly present is the indispensable party question, which, as we have stated, should not be raised by the Movants.

For the reasons above stated, respondents respectfully submit that the motions should be denied.

Respectfully submitted,

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September 14, 1964